REMARKS

Pending Claims:

In this application, claims 1-8 are currently pending. Claims 1, 4, 5 and 8 are amended by this Response. Claim 4 has been rewritten in independent form including the limitations of base claims and intermediate claims. Entry of these amendments is respectfully requested.

Drawings:

The informal drawings submitted with the application were objected to in the Office Action. The Examiner indicates that a claimed element is missing from the figures. This is in error. In Fig 3a the spine 36 is in the first position or condition and the aperture 46 is covered up or sealed. In Fig3b the surface is thermally activated and aperture 48 is now opened and the hole or aperture 46 is uncovered. The "heat" arrow indicates application of heat to element 48.

Applicant will formalize the present drawing if they are found to be complete.

Rejection under 35 U.S.C. §102(b) and (e)

The Examiner has rejected claims 1,2,8 as being anticipated by Vigil '392. The Vigil reference does not teach the specific range of heights called for by the amended claims. The disclosure of Vigil reflects a structure for inserting drug and the like into tissues. The spine structures are far in excess of the range claimed by the Applicant. For these reasons the Vigil reference does not teach the claimed range of the Applicant.

The Examiner has rejected claims 5, 6, 7 and 8 as being anticipated by Mirzee '947. Mirzee is a device which mechanically deploys relatively large structures in the same fashion of Vigil. These spines or tines have a scale which is sufficient to fully penetrate the vessels and to deliver drug beyond the boundaries of the vessel itself. For these reason the disparity in ranges make it clear that the Applicant's claims do not describe the structure of Mirzee.

Rejection under 35 U.S.C. §103

The Examiner has rejected claim 3 as being unpatentable over the combined teaching of Vigil '392 in view of Mirzee '947. Applicant has discovered and anticipates through testing and other research that the claimed range of 10-120 microns is sufficient

to carry out the purposes of the invention while operating outside that range is expected to be substantially less effective. This range is not obvious in view of the teaching of the cited references or other teachings within the applied reference. Operation within the range appears to be unique in achieving the therapeutic benefit, especially as applied to cardiovascular structures within the brain.

Allowable Subject Matter:

The Applicant notes that the Examiner has found claim 4 to be allowable if rewritten. The claim has been amended to meet the Examiners objections.

CONCLUSION

All of the claims remaining in this application should now be seen to be in condition for allowance. The prompt issuance of a notice to that effect is solicited.

Respectfully submitted,
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